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Also admitted in New York

**TESTIMONY OF: ANDREW J. PIANKA, ESQ. ON BEHALF OF JOANNE KENNEY,
ADMINISTRATOR OF THE ESTATE OF MATTHEW S. KENNEY**

PROPOSED BILL: RAISED BILL NO. 416
LCO NO.: 2594

**AN ACT VALDIATING CERTAIN STIPULATIONS TO EXTENSIONS OF TIME
FOR THE CLAIMS COMMISSIONER TO DISPOSE OF A CLAIM**

Members of the Judiciary Committee:

I represent Joanne Kenney, Administrator of the Estate of Matthew Kenney, with a claim that has been pending in the Claims Commissioner's Office since January 13, 2009 (claim #21739).

BACKGROUND

Matthew S. Kenney was a 14-year old boy who was struck and killed by a motor vehicle being operated by David Weaving. At the time of this accident, David Weaving possessed a Connecticut driver's license issued by the Department of Motor Vehicles. He was also operating a motor vehicle he had registered in his name.

However, at the time of this accident, David Weaving had a driving history in Connecticut punctuated with at least four (4) DWI convictions of Conn. Gen. Stat. §14-227a between November of 1996 and June of 1999. Under Conn. Gen. Stat. §14-227a, Mr. Weaving's license was mandatorily revoked for life on July 3, 1999. Despite the lifetime suspension/revocation, in 2004, David Weaving contacted the Department of Motor Vehicles to request reinstatement. The Department of Motor Vehicles instructed David Weaving on what steps he needed to take. The Department of Motor Vehicles received the documentation from David Weaving and during the processing, no

less than four (4) times, pulled and reviewed his driving history. David Weaving's driving history, if read, would reveal a lifetime suspension and four (4) violations of Conn. Gen. Stat. §14-227a, among many other violations. On July 12, 2004, the Department of Motor Vehicles restored David Weaving's driver's license despite the lifetime suspension¹. Between 2004 and 2007, David Weaving registered at least three (3) different motor vehicles with the Connecticut Department of Motor Vehicles.

On the evening Matthew Kenney was run down, David Weaving was driving his 1990 Ford Mustang south on Bethany Road. It was dusk. It was foggy out and the road was wet. David Weaving, on several occasions, pulled over the yellow line to pass traffic that was not traveling at a speed that suited him. As David Weaving approached 245 Bethany Road in Prospect, he again pulled out to pass a vehicle and accelerated to well over 80 miles per hour.

Matthew Kenney was with some friends at 245 Bethany Road, and was on his bicycle in front of said house in the northbound lane. Matthew was looking south for any oncoming traffic when David Weaving struck him from behind traveling at approximately 83 miles per hour. Matthew died the following day from his injuries.

Blood alcohol results taken after the accident revealed alcohol was in David Weaving's blood. A toxicologist has opined that at the time of this accident, David Weaving was over the legal limit.

The Department of Motor Vehicles has acknowledged that the license should never have been issued. It acknowledged that the driving history of David Weaving should have been reviewed prior to issuing the license and that this step was not done properly or not done at all.

¹ Conn. Gen. Stat. §14-3 provides the Commissioner of the Department of Motor Vehicles shall enforce the provisions of the statutes concerning motor vehicles . . . and shall keep records of all licenses and certifications granted, refused, suspended, or revoked.

David Weaving had a driving history punctuated with convictions for driving the under the influence, and the law required his license to be permanently revoked because it was apparent he was a danger to others. Had AAA² erroneously provided this license to David Weaving, they would certainly be subject to suit.

PROCEEDING BEFORE THE CLAIMS COMMISSIONER

This claim was filed with the Claims Commissioner's Office on January 13, 2009. Thereafter, the State requested several extensions of time, and on April 19, 2010, filed a Motion to Dismiss. The Estate has objected to the Motion to Dismiss and filed a Motion for Summary Judgment on May 17, 2010. On March 15, 2012, the parties appeared before the Commissioner and argued their motions. No decision was ever received. Over the years, my office would write or call the Commissioner's office on a monthly basis looking for a status. On June 18, 2015, at the request of the Claims Commissioner, the parties appeared for a second time and argued their motions. Again, no decision has ever been received.

We continued to contact the Claims Commissioner's Office inquiring of the status each time to be told the file was on the Commissioner's desk and a decision would be coming soon.

On February 24, 2015 and on December 1, 2015, we received from the Claims Commissioner a request to stipulate to an extension of time for the Claims Commissioner to dispose of the claim. On both occasions, the request was immediately signed and returned as requested. The Kenney family has been waiting patiently for over seven (7) years for the Claims Commissioner to act. During this time, a civil action pending in the Judicial

² AAA, the Automobile Association of America, renews drivers' licenses and performs other related services for the Connecticut Department of Motor Vehicles.

District of Waterbury against David Weaving has been stayed waiting for a decision from the Claims Commissioner.

RELIEF REQUESTED

At this time, given the considerable delay, I respectfully request that the Estate of Matthew Kenney be granted permission to sue the State pursuant to Conn. Gen. Stat. §4-159a(c)(2).

We also hope the Office of the Claims Commissioner's Office will be revamped to prevent such delays in the future.

I would suggest a panel of senior or retired judges be appointed to review claims submitted to the Claims Commissioner's Office. In addition, a set of rules should be promulgated to govern the procedures to be followed by claimants and the Commissioner's Office.

RESPECTFULLY SUBMITTED
THE CLAIMANT,
JOANNE KENNEY, ADMINISTRATOR OF THE
ESTATE OF MATTHEW KENNEY

BY: _____
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